

NEW YORK HERALD

BROADWAY AND ANN STREET.  
JAMES GORDON BENNETT,  
PROPRIETOR.

VOLUME XXXVII.—No. 47

AMUSEMENTS THIS EVENING.

FIFTH AVENUE THEATRE, Twenty-fourth street.—  
THE NEW DRAMA OF DIVORCE.

OLYMPIC THEATRE, Broadway.—THE BALLET  
FANTASIE OF RUSSIA.

BOOTH'S THEATRE, Twenty-third st., corner Sixth av.—  
JULIUS CÆSAR.

GRAND OPERA HOUSE, corner of 33d st. and 34th st.—  
EUROPEAN LITTÉRATURE COMPANY. Matinee at 2.

WOOD'S MUSEUM, Broadway, corner 33d st.—Perfor-  
mances afternoon and evening.—DALLING.

ACADEMY OF MUSIC, Fourteenth street.—ENGLISH  
OPERA.—MARTHA.

WALLACK'S THEATRE, Broadway and 13th street.—  
THE VETERAN.

NIBLO'S GARDEN, Broadway, between Prince and  
Houston sts.—BLACK UTOPIA.

BOWERY THEATRE, Bowery—BOY DETROIT—OUT  
ON THE LOOSE.

ST. JAMES THEATRE, Twenty-eighth street and Broad-  
way.—MARRIAGE.

MRS. F. B. CONWAY'S BROOKLYN THEATRE.—  
THE DOOR'S MOTTO.

THEATRE COMIQUE, 514 Broadway.—COMIC VOCA-  
LARI, DRAMA ACTS, &c.—L'OPÉRA.

UNION SQUARE THEATRE, Fourteenth st. and Broad-  
way.—NEUO ACTS—BELLEROS, SAT. PM. 4.

THIRTY-FOURTH STREET THEATRE, near Third av.—  
VARIETY ENTERTAINMENT.

TONT PATON'S OPERA HOUSE, No. 201 Bowery.—  
NEUO ENTERTAINMENT, MONDAY, SAT. PM. 4.

BRYANT'S NEW OPERA HOUSE, 234 st., between 6th  
and 7th avs.—BRYANT'S MINSTRELS.

SAN FRANCISCO MINSTREL HALL, 686 Broadway.—  
THE SAN FRANCISCO MINSTRELS.

PATILION, No. 686 Broadway.—THE VIENNA LADY OR-  
CHESTRA.

NEW YORK CIRCUS, Fourteenth street.—SCENES IN  
THE RING, ACROBATS, &c.

NEW YORK MUSEUM OF ANATOMY, 613 Broadway.—  
SCENES AND ART.

DR. KAHN'S ANATOMICAL MUSEUM, 745 Broadway.—  
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The Day of Small Things—The People Impatient—Give Us a Charter and Let There Be an End of Erie.

We seem to have fallen upon the day of small things. We have passed through a season of unusual anxiety and effort, and the people, having expressed their will, are waiting in patience for its enforcement. From our City Hall they expect a thorough revision of the municipal affairs, a purification of every department from the corruptions of the old Tammany rule. From Albany they hope for a charter that will be worthy of the nation's metropolis. From Washington they demand an improvement of our revenue system, reduction of taxation, the re-establishment of our navy. Yet what has been done for us? Our Aldermen and Councilmen have spent most of their time in intriguing about the City Hall patronage. Our legislators at Albany have given six weeks to an investigation of poor Terwilliger for accepting his time-honored dividend, and we are threatened with six weeks more of inquiry as to whether a thrifty clerk carried home a pocketful of postage stamps. In Washington we have had a protracted investigation of Colonel Leet for making some money out of the general order business and not dividing all around, and we are threatened with a still more protracted investigation of some military people for selling guns and cartridges to the French government.

So all around the horizon we have this comedy of Lilliput. Small men in great concern about small things; politicians clattering, contriving, intriguing; Cheap-Jack newspapers clamoring over their circulation, their honesty, their influence, their contempt for one another, generally high in oath, and offending all decent wayfarers. Here, for instance, we have had the gravest problem of international relations that we have known since 1812—a problem that threatened war, and brought, with a paralysis of business, a decline of our bonds, an advance in gold—grave enough to be mentioned in a speech from the throne and discussed in Parliament. Yet Cheap-Jack newspapers have scarcely printed the news—preferring to give column after column on Murphy and Leet, Terwilliger and Hank Smith, while Cheap-Jack Senators stand up for hours and hours, indifferent to the nation's peace and honor, and discuss the sale of a few old guns to the French. The country is revolting at this trifling, and plain, honest men are asking, "Is it not time to do something, especially when there is so much to be done? Can we not end this magpie gossip and fishermen's invective?" We can well admit a certain limit to the nonsense and vanity of our public men, but the time has come to end it. Gulliver records in his travels that he came upon a community in a high state of political excitement. The trouble grew out of an egg. One party contended, if we remember correctly, that an egg should always be broken at its large end; the other that it should be broken at the small end. The community divided into two great parties, called the big-ends and the little-ends, and the partisan animosities almost led to civil war.

This is what we see in our own affairs. The big-ends and the little-ends are in terrible strife, and decent, fair men can do nothing. If these trifles were of any value in impressing public opinion we might tolerate them. But public opinion in these United States has its own mind, and sees when a mist is a mist and when there is really smoke and fire. The country knows that Mr. Alvord, with his wily tactics, means to defeat the charter; that Mr. Greeley cares more to have the Fenton strikers engrossed upon some pay-roll than to secure a good charter; that these Erie petitions are signed by Erie employes; that the war on Terwilliger and Murphy is meant to defeat Grant; and that if these hungry, clamoring politicians were in power they would be as bad and perhaps worse than those now in place. Public opinion knows quite well that the reason these Fenton men do not support the administration is because the administration does not support them. It knows, furthermore, that the support of the Conkling men springs largely from an attachment to the pay-roll. Public opinion remembers that every administration is badged by similar oppositions—that so long as a President cannot appoint two hundred thousand politicians to fifty thousand places there will be one hundred and fifty thousand patriots in opposition. Political confidence is a plant of rapid growth. Jonah's gourd, compared to it, was as slow in maturing as the American aloe. But political confidence—which might be better expressed as political mendacity—has little weight with the people of the United States. The men who pay taxes and earn their own livelihood have a way of voting as they please and of enforcing their will, in the long run, even upon the big and little endians, and of giving us Presidents like Washington and Jefferson and Jackson and Lincoln and Grant.

If this were a time for comedies we might laugh with the rest at the antics of these small men. But, alas! we suffer for wise legislation. Here in New York we are like a ship without mast or rudder in mid-ocean. We have no charter, no sailing master, no crew. We are told that vile men sit upon the Bench; that Justice has become a leering wanton; that Vice sits under the ermine; yet nothing is done to make good these fearful charges. That justice which, as Richelieu says, is for all time a temple and all seasons summer, is slandered, and no one has championed her or punished those who have done her wrong. An American name has been injured abroad so irretrievably that we have lost more in money alone than we would gain by the payment of any English indemnity, solely by the existence of this monstrous Erie Ring. Its history is too familiar and too shameful to be repeated now. But no American has trodden a foreign shore without being compelled to blush at the crimes of Erie; and yet it reigns unchallenged, unmolested—powerful to buy and sell, build up and strike down. The masters of Erie are still the masters of New York, and instead of a resolute, prompt assault upon the strongholds of this gigantic power, we hear of combinations by which Mr. Gould and his associates are to buy immunity by abandoning the democracy and supporting the republicans; and that there are republicans who look gleefully at the prospect of such an alliance. However true this may be—and we accept it as true—no

such an alliance will be permitted in New York. We have pulled Tammany down as effectually as when Samson drew down the pillars, and Erie stands a trembling, unsupported column. To condone all the infamies that have been perpetrated in the name of Erie—the corruption of legislation, the subduing of the press, the pollution of the Bench, the violation of vested rights, the creation of mob rule and anarchy, the unblushing robbery of foreign stockholders and bondholders, the absorption of this great and needed trunk line for private emolument by those who hold it in trust—will bring political damnation to any party that permits it. All these deeds must be investigated and punished. The record of Erie is such that the people will be justified in regarding every member of the Legislature who does not vote for its overthrow and the selection of new men to manage the road as a bought hireling of the road, bribed with its money, who has sold his soul after the manner of Judas Iscariot.

With the downfall of Erie we must have a new charter. This cannot be longer delayed. The people passed upon this question at the last election, and they will not submit to this Albany trifling. Mr. Alvord particularly will not add to his reputation by standing in the way of wise legislation. We want a plain, simple, specific charter, based upon sound principles of law, that will live for a generation at least. We care nothing as to the distribution of the patronage. The people will take care of that in time, and it will matter little who serves them provided they are served. Anyhow, let us have an end of trifling, of all lilliputian legislation. Let us have a charter, and let the scandal of Erie be removed. New York demands this, and unless this demand is regarded the men who fail to do so will have a political infamy that even our own queer history will not parallel.

SENATOR JAMES H. GRAHAM, of Delaware county, is said to be doubtful how he shall vote on the bill to repeal the Erie Classification act. The Erie lobby are looking out for doubtful men—and so are the people.

A Wall Street Sensation—The Erie Ring Again.

Wall street has a new episode—not one of the Artemus Ward kind, but a good sensation in every way for the *habitués* of that locality. The subject is Hannibal and St. Joseph—not the Carthaginian and the Judean, but the stock of a railroad running between two Western towns thus curiously, heathenishly and religiously designated and connected—a speculative "fancy" which has been the "deep damnation" of many a speculator the last year or two, and the real cause of the failure of the Bowling Green Savings, and, possibly, one or two others of the banks which collapsed a little while ago. Last Monday the man who bought of this stock believed he was buying a portion of a capital of four millions only. But on Tuesday the announcement was made that the long-closed transfer books, which had been removed to this city from Boston after the last election had turned over the road to New York management, were open again, and that the common share capital was nine millions. No announcement had been made beforehand. The wishes of the stockholders had not been consulted in the slightest particular. There had not been the usual vote to ratify or reject an increase of capital stock.

It is an Erie case all over again. Indeed, the parties in it are many of them the identical brokers who bought and sold Erie shares for James Fisk, Jr., and the old Erie Ring. The records of the latest overture were written in the same offices by the same clerks, and with, possibly, the same ink and pens. But this time the Stock Exchange has been too vigilant. The laws of that body now require a thirty days' preliminary notice of any intended issue of new stock, and also a full registration of the share capital with some "reputable" banker or trust company, apart from the transfer offices of the corporation. As soon as this attempt at an overture of Hannibal and St. Joseph became known the Governors of the Stock Exchange put the law into force and ruled the new stock "not a good delivery"—a technical way of saying that it cannot be bought and sold at the board and cannot be marketed.

So fades the glory of the Ring day by day. The bold spirit who was called to his last account the other day at the Grand Central would have managed this matter a great deal better. Indeed, it remains to be seen whether his survivors have not entrapped themselves in a difficulty which may turn to their utter pecuniary destruction, for in expectation of the easy use of the new stock or overtures they sold nearly the entire capital stock to Wall street and are now bound to make good their contract in the old certificates. The Stock Exchange and the public seem to have the remnant of the Ring at their mercy this time for once.

SENATOR HARROWER, of Steuben, may vote against the repeal of the Erie Classification act, but he may live to regret that he did not love the Erie Ring less and the people more.

THE PAPAL CONSISTORY AND MISSION URBANI ET ORBIS.—Pope Pius IX. has called a Consistory of the Roman Catholic Church, to be held in the Vatican, for the nomination of bishops, on the 19th inst. It is probable that an appointment to the Archbishopric of Baltimore, a Primatial American See of Baltimore, will be submitted to the members of the Sacred College, with other matter of great import to the Christian world. There are a very large—unusual—number of scarlet hats at the disposal of the Pontiff, as will be seen by the historical facts which we append to our news telegram from Rome. Germany, the United States, Great Britain, Asia, Africa and Australasia will, it is said, receive hierarchical honor and missionary attention, and the question of public education be treated at much length in an Encyclical.

SENATOR NORMAN M. ALLEN is from Cattaraugus county. He is supposed to have intimate personal relations with the Erie Ring managers, but his constituents are opposed to the Gould-Lane combination. Will he throw upon Governor Fenton's representative and Governor Fenton's district the odium and suspicion that will attach to a vote cast in favor of the Erie Ring against the rights of the stockholders, the interests of the people and the cause of justice?

The Judiciary Committee and the Judges. Among the qualities inherent in the Anglo-Saxon character entitled to pre-eminence none is more marked than the universal desire for justice and fair play. The many readers of the HERALD are witnesses of the earnestness with which the columns of this journal have supported all efforts for municipal reform. But while pressing steadily onward in the reformation of abuses and in the exposure of corruption, it is well to remember that unusual courses of procedure establish precedents which may not only return to plague the inventors, but tend also to weaken the foundations of ordinary and legal methods for the attainment of wished-for results, and in the place of settled principles leave only the shifting ways suggested by immoderate zeal and too often by partisan malice. It well becomes, therefore, a public journal, in times of popular excitement, to raise its voice, not solely in urging effort, but to temper action with a due regard for the laws.

We are led to these remarks by the efforts of certainly one metropolitan newspaper to influence in a wrong direction the Judiciary Committee, whose session is to be held in this city to inquire as to the performance of trusts by persons now holding high judicial position. It is hardly necessary to remind our readers of the importance of the office of Judge of the Supreme Court of the State of New York, not dependent upon the person who may temporarily fill the place, but drawn to and surrounding it by the gravity of the functions and the innate dignity of the position itself. The mistake which would be made in following the counsels of the journal referred to by the Judiciary Committee is to make the investigation a secret proceeding, to be pursued with closed doors, and giving no opportunity for publicity, and not permitting an appearance, either in person or by authorized representative, in behalf of the officials charged with high crimes and misdemeanors in office. This, in our opinion, would be a grave and fundamental error, inflicting wrong and injustice upon those whose acts are to be criticized, endangering the future independence of the judiciary, so necessary to the due administration of the laws, and turning what was intended as a safeguard and protection into a weapon which may hereafter be wielded with irresistible force against the honest and the upright.

The impeachment of a Judge of the Supreme Court is an event unknown in the history of our State; therefore most necessary, if the occasion has come for such an occurrence, that even in preliminary steps the proceeding should be marked by deliberate thoughtfulness and careful regard for established precedent. By the constitution of the State two modes of removal are prescribed:—  
First—Under article 6, section 1, authority is given to the Assembly to impeach all officers, judicial and civil, by presentment of articles of impeachment to a High Court of Impeachment, composed of the President of the Senate, a major portion of the Senators and a major part of the Judges of the Court of Appeals. It also provides that no judicial officer shall exercise his office after articles of impeachment shall have been preferred against him until after he shall have been acquitted.

Second—Under article 6, section 11, Judges of the Court of Appeals and of the Supreme Court may be removed by concurrent resolution of both houses of the Legislature if two-thirds of all the members elected to each house concur therein. But no removal shall be made by virtue of this section unless the cause thereof be entered in the journal, nor unless the party complained of shall have been served with a copy of the charges against him and shall have an opportunity of being heard. Ultimate punishment under the sections is as different as the method of proceeding. In the first the section provides that it shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, trust or profit under the State, but the party impeached shall be liable to indictment and punishment according to law. In the second simply the removal from office.

By the section first indicated, however, a serious punishment is inflicted prior to trial and conviction before the Court of Impeachment, as the exercise of judicial functions is prohibited immediately upon the presentment of the articles of impeachment to the Senate. It is nowhere therein enacted, as in the section secondly cited, that specific charges shall be furnished; so that if the Judiciary Committee enact the *role* of a grand inquest, giving no hearing to the accused, the severe judgment of suspension is passed upon *ex parte* testimony and, may be, prejudiced and unreliable statement. This is foreign both to strict justice and enlightened equity, partaking too much of the Star Chamber and the Inquisition.

Let us turn for a moment to the consideration of precedent, both remote and proximate. William Blount, United States Senator from Tennessee, was expelled before trial, but subsequent to the order for impeachment, in 1799; Judge Chase, Justice of the Supreme Court of the United States, was impeached in 1805, after a public investigation of the charges, lasting two months, by a committee of the House of Representatives; Judge Peck, in 1831, upon presentment by a like committee, similar investigation; also Judge Addison, of Pennsylvania, and Judge Hubbell, of Wisconsin, of which latter cases we have not the records at hand; Judge Busted, of Alabama, after inquiry by a committee of the House, before whom the respondent appeared by counsel, cross-examining the witnesses and presenting evidence in his own behalf. In this State the trial of George W. Smith, Judge of Oneida county, was founded upon the action of the Governor of the State, under the provisions of section eleven, only to be taken against other than Judges of the Court of Appeals and Supreme Court and Justices of the Peace, and Judges and Justices of inferior Courts not of record. The action of similar committees of the present Legislature seemingly settles the question. The Committee on Insurance, now investigating charges against Superintendent Miller, a State official, sitting in this city, with open doors, the respondent represented; the Committee of Ways and Means, upon charges against the Capitol Commissioners; on Public Printing, as to Weed, Parsons & Co.; the special committee of the Senate,

upon charges against Terwilliger, its clerk; Privileges and Elections, in the Killian-Freear case; Commerce and Navigation, as of the Pacific Mail Steamship Company.

Under the constitution, therefore, as well as by precedent, we think the future course of the Judiciary Committee is clearly marked. But, aside from either, upon the broad principles of right and justice, we feel bound to raise a note of warning against secret inquest and one-sided investigation. Indictment by a Grand Jury brings no punishment until after trial and conviction. In the case of Judges a portion of the penalty falls before either. So let the doors be thrown wide open; let all be heard; permit, we say, the daily proceedings to be laid before the people, in whose interests and by whose representatives the steps are taken, so that hereafter, when perhaps too late, nothing may be found to have been done or permitted belittling the judicial office, unjust to the respondents or derogatory to the dignity of the State.

SENATOR GEORGE BOWEN, of Genesee, is compelled to bear the unenviable reputation of having been a member of the Senate that passed the Erie Classification law. He now has an opportunity to atone for that act by voting for its repeal. It is hinted in Albany by the Erie lobby that no member of the last Senate dare vote for Senator O'Brien's bill. The course of Senator Bowen will therefore be watched with peculiar interest.

A Grand Political Scheme—The Plans of the Office-Seekers.

It was scarcely to be expected that the recent political revolution would pass into history without an effort being made by partisans to use it as a means of advancing their own interests. The party organs have heretofore acknowledged the fact that the victory of last November was won by the citizens, without regard to political divisions; that in this city, at least, it was secured by the strength of the reform democracy, led by Senator O'Brien, and that its fruits belong to the people and not to the politicians. But the State Legislature has an overwhelming republican majority, and there are indications that a strong effort is to be made to induce it to use its power to subserve partisan ends in legislating for the future government of the city of New York. The bill to create a commercial district, comprising the counties of New York, Kings, Queens, Westchester and Richmond, recently introduced into the Assembly by Mr. Twombly, is simply a magnificent scheme of party plunder. It seeks to place in the hands of a commission of nine members the control and patronage of Quarantine, Health Officer, Captain of the Port, Harbor Masters, Port Wardens, water police, the building, repair and management of docks, the regulation and collection of wharfage, and, in fact, of everything connected directly or indirectly with the commerce of the port. By the terms of the bill the Commissioners would be elected by the Legislature in the same manner as are Regents of the University; the President would hold office for ten years, and his eight associates would be classified in terms of two, four, six and eight years, two to retire every second year. A majority of the board chosen by the present Legislature would thus hold control of this vast patronage for the next six years, unless the law should be sooner repealed.

This magnificent scheme to seize upon the richest portion of the city spoils originates with the lobby, and is urged upon members as a purely party measure. "We have got the power," is the plain, blunt argument of the old lobbyists who have it in hand, "and we shall be foolish if we do not use it to take care of our political friends and our political interests." No attempt is made to advance the prospects of the bill by any vindication of its provisions. It is not pretended that it is demanded by or would promote the public interest. It is boldly advocated and justified as a party measure, to insure to one set of politicians, who are numerically powerless in the city, a liberal share of the public plunder while their friends have the power to bestow it upon them. Now, it is of very little consequence whether the Quarantine Commissioners, the Health Officer, the Port Wardens, Harbor Masters and the rest are members of one political party or the other, so long as they are honest and capable men. If the legislative majority will give us sound laws and good officers to execute them the people of New York will not care what political interests will be advanced by the former or to which political party the latter may belong. But this scheme of an old railroad lobby is a repetition on an enlarged scale of the metropolitan commission system, which was instrumental in throwing the city government into confusion, breaking down direct responsibility and laying the groundwork for the corruption of our whole municipal body. It is a partisan attempt to deprive the citizens of the metropolis of the fruits of a victory won by their own efforts, and bestow them upon a clique of political office-seekers. It is a bold, undisguised betrayal of the cause of reform. The members of the Senate and Assembly sent to Albany from this city were, with a few insignificant exceptions, elected upon the implied, if not directly expressed, pledge to give New York a sound, practical, effective municipal charter, without regard to the interests or the desires of politicians of either organization. In lending himself to this lobby effort to